

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

YOURGOS DIAMANTOPOULOS,	)	4:09CV3173
	)	
Plaintiff,	)	
	)	
V.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
FRED BRITTON, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff's Motion for Leave to Proceed In Forma Pauperis ("IFP"). (Filing No. 7.) As set forth in the Prison Litigation Reform Act, a prisoner cannot:

[B]ring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted.

28 U.S.C. §1915(g).

The following three cases brought by Plaintiff were dismissed because they were frivolous or failed to state a claim upon which relief may be granted:

- *Rehbein v. Nelson, et al.*,<sup>1</sup> No. 4:95CV3157 (D. Neb.), dismissed

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<sup>1</sup>Yourgos Diamantopoulos is also known as Cary Nelson Rehbein. See Nebraska Department of Correctional Services, Inmate Locator, at <http://dcs-inmatesearch.ne.gov/Corrections/InmateDisplayServlet?DcsId=35084> (last visited Sept. 2, 2009).

on August 18, 1995. (Case No. 4:95CV3157, Filing Nos. 13 and 14 (see [Docket Sheet](#)).)

- *Diamantopoulos v. Director of Corrections, et al.*, No. 4:05CV3097 (D. Neb.), dismissed on May 13, 2005. (Case No. 4:05CV3097, Filing Nos. [9](#) and [10](#).)
- *Diamantopoulos v. State of Nebraska, et al.*, No. 8:07CV31 (D. Neb.), dismissed on October 14, 2008. (Case No. 8:07CV31, Filing Nos. [95](#) and [96](#).)

Accordingly, Plaintiff has until October 2, 2009, to show cause why this matter should not be dismissed pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff may pay the full \$350.00 filing fee no later than October 2, 2009. In the absence of good cause shown or the payment of the full filing fee, Plaintiff's Complaint and this matter will be dismissed without further notice.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Proceed In Forma Pauperis (filing no. 7) is denied. Plaintiff has until October 2, 2009, to either show cause why this case should not be dismissed pursuant to [28 U.S.C. §1915\(g\)](#) or pay the full \$350.00 filing fee. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.

2. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: October 2, 2009: Deadline for Plaintiff to show cause or pay full filing fee.

3. All other pending motions are denied without prejudice to reassertion.

September 3, 2009.

BY THE COURT:

*Richard G. Kopf*  
United States District Judge

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